

ORDINANCE
NO.

AN ORDINANCE REPEALING AND REPLACING CITY CODE SECTION 9-4-11 RELATING TO CAMPING IN PUBLIC AREA PROHIBITED, ~~AND CITY CODE SECTION 9-4-14 RELATING TO OBSTRUCTION IN THE DOWNTOWN AUSTIN COMMUNITY COURT AREA PROHIBITED~~; AND CREATING OFFENSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF

AUSTIN: **PART 1. FINDINGS:**

- ~~(A) Council finds that this ordinance is needed to clarify and further define the prohibitions on camping, obstruction, and sitting and lying in public and other specified areas.~~
- ~~(B) Council finds that the prohibitions and law enforcement procedures enacted by this ordinance do not make it a crime to be a person experiencing homelessness in the City, but prohibit specific risky and potentially injurious behaviors in specific areas.~~
- ~~(C) Council finds that the City Manager's August 30, 2019 memorandum challenges the Council to provide additional clarity with regards to the June 20, 2019 changes Council made to City Code Sections 9-4-11 (*Camping in Public Area Prohibited*) and 9-4-14 (*Obstruction in the Downtown Austin Community Court Area Prohibited*).~~

PART 21. The caption and City Code Section 9-4-11 (*Camping in Public Area Prohibited*) is repealed and replaced to read as follows:

§ 9-4-11 CAMPING ~~IN~~ AND OBSTRUCTION IN CERTAIN PUBLIC AREA PROHIBITED AREAS PROHIBITED.

(A) In this section:

(1) PUBLIC AREA means an outdoor area accessible to the public including a street, highway, park, parking lot, alleyway, pedestrian way, and the common areas of a school, hospital, apartment building, office building, transport facility, or business.

(2) CAMP means the use of a public area for living accommodation purposes including:

~~(a) storing personal belongings for an extended or indefinite period of time;~~

~~(b)~~ making a camp fire;

~~(e)~~ using a tent or shelter or other structure ~~or vehicle~~ for a living accommodation;

~~(d)~~ carrying on cooking activities; or

~~(e)~~ digging or earth breaking activities.

(B) Except as provided in Subsection (D), a person commits an offense if, after having been notified by a law enforcement officer that the conduct violates this section and having been given a reasonable opportunity by a law enforcement officer to correct the violating conduct, and having rejected said opportunity. A “reasonable opportunity” to correct conduct that violates this section means an offer of available and accessible housing, shelter, or alternative location to camp that is immediately available and accessible to the person in light of their individual circumstances, including disability. ~~the person camps in a public area that is not designated as a camping area by the City of Austin and the person is:~~

(1) the person is camping and: -

(a) materially endangering the health or safety of another person or of themselves; or

~~(b) (2)~~ intentionally, knowingly, or recklessly rendering impassable or impeding the reasonable use of a public area making usage of such area unreasonably inconvenient or hazardous.; and -

(c) It is a violation of this subsection, without limitation, to camp-erect

a tent or other structure for shelter on a sidewalk, which shall be deemed material endangerment, rendering impassable, or impeding the reasonable use of a public area.

(2) the person is camping, ~~sitting, or lying~~ or obstructing passage and:

(1) within the area of the Austin Resource Center for Homeless (ARCH) and Salvation Army Downtown Shelter, so long as either is an operating homeless shelter, bordered by East 4th Street (South), South Bound I-35 Frontage Road (East), East 11th Street (North), and Brazos Street (West).

(2) Within approximately one-quarter mile, with boundaries set by the City Manager, of an operating homeless shelter located outside of the area in the Central Business District.

(3) Within 15 feet of a door jamb of a residence or a business during operating hours of the business ~~or residence~~, which shall be deemed material endangerment or rendering impassable or impeding the reasonable use of a public area.

(C) A person is camping if the person engages in any of the activities listed in Subsection (A)(2) if it reasonably appears, based on the totality of the circumstances, that the person conducting the activity is using a public area for living accommodation purposes, regardless of the person's intent or engagement in other activities.

(D) This section does not apply to permitted camping or cooking in a park in compliance with park regulations.

(E) It is an affirmative defense to prosecution that a person owns the property or has secured the permission of the property owner to camp in a public area.

(F) City Code Section 9-4-14 (OBSTRUCTION IN THE DOWNTOWN AUSTIN COMMUNITY COURT AREA PROHIBITED) Subsections (F) and (G) are fully incorporated herein as set forth below:

(1) This section does not apply to a person who:

(a) is obstructing the right-of-way because of a medical

emergency;

(b) operates or patronizes a commercial establishment that conducts business on the sidewalk under Title 14 (Streets and Use of Public Property) of the Code;

(c) participates in or views a parade, festival, performance, rally, demonstration, or similar event;

(d) sits on a chair or bench that is supplied by a public agency or by the abutting private property owner;

(e) sits within a bus stop zone while waiting for public or private transportation; or

(f) is waiting in a line for goods, services, or a public event.

(2) It is an affirmative defense to prosecution if a person is obstructing the right-of-way as the result of a physical manifestation of a disability, not limited to visual observation.

PART 32.— Instructions to City Manager:

The City Manager is directed not to enforce Subsection (B)(2) of City Code Section 9-4-11 (*Camping and Obstruction in Certain Public Areas Prohibited*) and City Code Section 9-4-14 (*Obstruction in the Downtown Austin Community Court Area Prohibited*) against individuals who are alleged to be in violation of these ordinances and who are within the area around a homeless shelter as defined in Subsection (B)(2) of City Code Section 9-4-11 (*Camping and Obstruction in Certain Public Areas Prohibited*) beginning when the effort to relocate is initiated and ending when the following events occur, notwithstanding the ongoing enforcement procedures described in Section (B):

(1) The City Manager certifies that the City has offered appropriate services and permanent housing to these individuals; and

(2) the City Manager posts on the city website a report documenting that the city has given these individuals an adequate opportunity to participate in such housing and services, that the housing and services being offered to individuals are appropriate based on the assessments

completed (including permanent housing opportunities); and

(3) that these individuals have been adequately educated about city rules related to camping or sitting or lying in the prohibited area around homeless shelters, and that individuals have been granted sufficient time to participate in housing and service programs.

PART 43.

This ordinance takes effect 15 days after passage of the ordinance.

PASSED AND APPROVED

_____, 2019 §
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 § _____
Steve Adler
Mayor

APPROVED: _____ **ATTEST:** _____
Anne L. Morgan Jannette S. Goodall
City Attorney City Clerk